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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,963	07/22/2003	Brian J. Belfiore	LEEE 2 00293	5329
27885	7590	07/12/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			KERNs, KEVIN P	
		ART UNIT	PAPER NUMBER	
		1725		

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/623,963	BELFIORE ET AL.	
	<b>Examiner</b> Kevin P. Kems	<b>Art Unit</b> 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-54 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 13,14,28,29 and 31-53 is/are allowed.  
 6) Claim(s) 1-12,15-27,30 and 54 is/are rejected.  
 7) Claim(s) 17 and 44 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/12/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Objections***

1. Claims 17 and 44 are objected to because of the following informalities: in the 5<sup>th</sup> line of both claims, replace "member" with "members" after "second". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 54 recites the limitation "said adjustable spring device". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6, 11, 12, 15-24, 26, 27, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Kensrue (US 6,568,578).

Kensrue discloses a welding wire feed mechanism, in which the wire feed mechanism includes the following elements: a support member; a pair of pinch rolls (driver 44 and idler 46) having respective roll surfaces (driver 64 and idler 66), with one of the rolls being mounted to the support member, and the combination of rolls being operable for gripping the welding wire therebetween; a lever mechanism pivotably mounted around a pivot shaft 70; a compression cylinder (mount 108 defining a cylindrical spring pocket) that includes first and second biasing members (104,105) in the form of separate springs sharing a common spring axis, in which the springs are compression springs that are selectively of differing heights, differing spring moduli, and differing or uniform spring rate (embodiments of Figures 2, 3, 5, and 7-9); a cylinder post (shaft 106 of Figure 4) that includes a threaded portion 134 at one end that engages with a through hole 114 in the support member and is biased by the first spring 104; and a pivotably connected adjustable spacer 110 (defining a drive position, a released position, and a plurality of intermediate positions) that pivotably attaches to the cylinder post, or shaft 106 (abstract; column 1, lines 7-10; column 2, lines 40-67; column 3, lines 1-67; column 4, lines 1-12 and 51-67; column 5, line 1 through column 11, line 11; and Figures 2-9).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 7-10 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kensrue (US 6,568,578) in view of Tabellini (US 5,775,619).

Kensrue discloses the elements of independent claims 1 and 20 above. Kensrue does not disclose that one of the first and second springs are positionable within the other (concentrically arranged).

However, Tabellini discloses a roller that includes concentrically arranged spring members, such that the concentric springs are advantageous for obtaining precise

linear elastic reaction forces (abstract; column 2, lines 62-67; column 3, lines 1-54; column 4, line 26 through column 6, line 58; and Figures 1-4).

It would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to modify the arrangement of the springs in the welding wire feed mechanism disclosed by Kensrue, by using the concentrically arranged spring members, as taught by Tabellini, in order to obtain precise linear elastic reaction forces (Tabellini; column 3, lines 45-54).

***Allowable Subject Matter***

9. Claims 13, 14, 28, 29, and 31-53 are allowed. [Note: claim 44 is currently objected to – see paragraph 1].
10. Claim 54 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
11. The following is a statement of reasons for the indication of allowable subject matter: the reasons are the same as those set forth in paragraph 12 of the Office Action mailed March 14, 2005.

***Response to Arguments***

12. The examiner acknowledges the applicants' amendment and Information Disclosure Statement received by the USPTO on May 12, 2005. The IDS has been

considered and initialed, and a copy of the IDS is enclosed with this Office Action. The amendments to the specification and claims overcome prior objections to the drawings, specification, and claims. However, a claim objection remains in claim 17, while another claim objection has been raised in new claim 44. In addition, a claim rejection under 35 USC 112, 2<sup>nd</sup> paragraph has been raised by addition of new claim 54. The applicants have added new claims 31-54. Claims 1-54 are currently under consideration in the application, with claims 13, 14, 28, 29, and 31-53 having been indicated as allowable.

13. Applicants' arguments filed May 12, 2005 (with regard to claims 1-12, 15-27, and 30) have been fully considered but they are not persuasive.

With regard to the applicants' remarks/arguments on pages 18 and 19 of the response, the applicants' main argument is that Kensrue discloses "preset conditions" and "predetermined forces" (see last paragraph on page 18 of remarks) rather than "a first range of gripping forces with force produced by the first spring modulus and a second range of gripping forces with force produced by the second spring modulus". Although the examiner does not disagree with the applicants' statement of Kensrue disclosing "preset conditions" and "predetermined forces", these features are not deemed to be counter to the limitations recited in independent claims 1 and 20, and thus do not overcome the rejections based on Kensrue, as Kensrue discloses first and second biasing members (104,105) in the form of separate springs sharing a common spring axis, in which the springs are compression springs that are selectively of differing

heights, differing spring moduli, and differing or uniform spring rate (see paragraph 5). Regarding the applicants' remarks on page 19 (addressing Tabellini), the concentrically arranged springs are advantageous for obtaining precise linear elastic reaction forces, which includes a motivation that would apply to a welding wire feed mechanism, as one of ordinary skill in the art would recognize.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kevin P. Kerns whose telephone number is (571) 272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin P. Kerns *Kevin Kerns 7/8/05*  
Primary Examiner  
Art Unit 1725

KPK  
kpk  
July 8, 2005